

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

John Jacob Yorkey,	)	
	)	
Plaintiff,	)	C.A. No. 8:07-1037-HMH-BHH
	)	
vs.	)	<b>OPINION &amp; ORDER</b>
	)	
Warden Michael Pettiford; Assistant	)	
Warden A Mansukhani; MD L Berrous,	)	
Warden FCI Marianna; Dr. J. Berrous,	)	
	)	
Defendants.	)	

This matter is before the court with the Report and Recommendation of United States Magistrate Judge Bruce H. Hendricks, made in accordance with 28 U.S.C. § 636(b)(1) (2006) and Local Civil Rule 73.02 of the District of South Carolina.<sup>1</sup> John Jacob Yorkey (“Yorkey”), proceeding pro se, brings this action pursuant to Bivens v. Six Unknown Named Agents, 403 U.S. 388, 397 (1971). In her Report and Recommendation, Magistrate Judge Hendricks recommends granting the Defendants’ motion to dismiss and denying Yorkey’s motions for sanctions, to strike Defendants’ motion to dismiss, and for default judgment. Further, Magistrate Judge Hendricks recommends denying Yorkey’s motion to appoint counsel and for a temporary restraining order be denied as moot.

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<sup>1</sup> The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1) (2006).

Magistrate Judge Hendricks recommends granting the Defendants' motion to dismiss because the court lacks personal jurisdiction over the Warden at FCI-Marianna, Yorkey has failed to exhaust his administrative remedies, and even if Yorkey had exhausted his administrative remedies, Yorkey has failed to state a claim for medical indifference.

Yorkey filed objections to the Report and Recommendation. Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that Yorkey's objections are non-specific, unrelated to the dispositive portions of the Magistrate Judge's Report and Recommendation, or merely restate his claims. Therefore, after a thorough review of the Magistrate Judge's Report and the record in this case, the court adopts Magistrate Judge Hendricks' Report and Recommendation.

Therefore, it is

**ORDERED** that the Defendants' motion to dismiss, docket number 28, is granted. It is further

**ORDERED** that Yorkey's motions for sanctions, docket number 31, to strike Defendants' motion to dismiss, docket number 33, and for default judgment, docket number 34, are denied. It is further

**ORDERED** that Yorkey's motion to appoint counsel and for a temporary restraining order, docket number 15, is denied as moot.

**IT IS SO ORDERED.**

s/Henry M. Herlong, Jr.  
United States District Judge

Greenville, South Carolina  
September 20, 2007

**NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.